Environmental Protection Agency - Region 4

Fiscal Year 2000

Enforcement & Compliance Assurance

Accomplishments Report

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FY2000 Accomplishments

The following report details the accomplishments of the Environmental Protection Agency (EPA) - Region 4 enforcement and compliance programs during fiscal year 2000 (FY2000), which lasts from October 1, 1999 through September 30, 2000. EPA Region 4 encompasses eight states in the southeastern United States, including Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee. By working with the environmental agencies in these states, the Region has implemented a balanced approach to environmental protection. Using a combination of enforcement, compliance incentives, and compliance assistance, the best approach for addressing environmental degradation can be achieved.

Top Accomplishments

Enforcement Cases and Penalties

EPA Region 4 continued to maintain a strong enforcement presence in FY2000 by referring 65 civil cases to the Department of Justice (DOJ), a large part due to the initiative against coal-fired utilities (see below). In addition, the Region almost tripled the number of Administrative Orders issued in FY2000 due to an initiative to enforce the Safe Drinking Water Act (SDWA) Consumer Confidence Reports Rule. Of the civil and administrative cases that were concluded in FY2000, $ 5,737,510 in penalties were assessed, $ 127,592,840 in injunctive relief was imposed, and 1,392,508 pounds and 290,346 gallons of pollutants were eliminated.

Coal Fired Utilities Initiative

The Clean Air Act (CAA) enforcement program has remained fully engaged in the coal-fired utility initiative with the Office of Enforcement and Compliance Assurance (OECA), EPA Regions 3 & 5, DOJ, the states and the utilities themselves. Regional progress during FY2000 includes referrals of four parent companies, Southern Company, Tampa Electric Company (TECO), Duke Energy Company, and Carolina Power and Light to DOJ, and the subsequent support of the cases as they proceed through the judicial system. Region 4 was intricately involved in the TECO settlement which resulted in a Consent Decree filed in District Court (see Case Summaries for details of the settlement). Region 4 also issued an administrative order to the Tennessee Valley Authority, and worked closely with OECA and DOJ in preparing for the Environmental Appeals Board hearing, and the written response to petitions filed in Circuit Court. New NSR/PSD investigations have commenced on all of the remaining coal-fired utilities in the Southeast with information request letters being sent during last quarter of the fiscal year.

Resource Conservation and Recovery Act (RCRA) Permit Evaders

The RCRA enforcement program supported national efforts in ensuring that dangerous treatment and recycling practices are eliminated and that illegal operations do not continue to economically undercut those facilities that operate within the law. As part of this, the RCRA program targeted inspections at Ferrous and Non-Ferrous Foundries, where 60 % of the facilities were found to be in significant noncompliance. This resulted in one EPA civil referral to DOJ as well as one RCRA § 7003 Imminent and Substantial Endangerment Order. The other enforcement cases are being handled by EPA or the State agencies.

EPCRA National Nitrate Compliance Initiative

The EPCRA National Nitrate Compliance Initiative was a self-disclosure solicitation targeted at facilities which reported nitric acid in the TRI reports, but failed to report nitrate compounds. Forty-one companies agreed to settle with the Region and 26 were multi-regional cases referred to OECA. An additional 20 companies were determined to be in compliance. EPA Region 4 filed 25 Compliance Agreements and Final Orders (CAFOs) in FY2000 and projects completing all of the CAFOs during the first quarter of FY2001.

Consumer Confidence Report Enforcement

In 1996, Congress amended the Safe Drinking Water Act and added a provision requiring that all community water systems deliver to their customers a brief annual water quality report. This report is called the Consumer Confidence Report (CCR). The first CCR was to be delivered to the consumers by October 19, 1999. The rationale for the CCR is that consumers have the right to know where their water comes from, what is in their drinking water and how safe it is. The reports are based on calendar-year data, so the first report included data collected between January and December 1998. In 2000 and the years following, the systems must deliver the report to consumers by July 1. Because of the timing of the rule, several states in the nation were unable to obtain primacy for CCR by the October deadline. The EPA Regions decided to develop enforcement documents that would show consistency across the country. Region 4 volunteered to develop model plain language enforcement actions, including a notice of violation (NOV) and an administrative order (AO) for distribution and use throughout the regions. The documents were modified by each region to address their particular needs.

As of the October 19, 1999 deadline, Tennessee was the only Region 4 state to have primacy and South Carolina and Georgia had primacy applications pending final approval. Based on the inability to obtain primacy and the desire to implement the rule in their own states, the Region 4 States made agreements with the EPA Drinking Water Program. The states agreed to perform most of the activities associated with the CCR and to forward the names and addresses of all facilities that were not in compliance by the deadline to EPA.

As a result, Alabama referred 15 facilities, Florida referred 50 facilities, Mississippi referred 36 facilities, Kentucky referred 14 facilities and North Carolina referred 184 facilities to the Region for enforcement. Kentucky, Mississippi and North Carolina issued Notices of Violations to the systems in their states that had not complied. The Region 4 Drinking Water Enforcement Team consisting of four employees, in turn, issued 65 NOVs to systems in Florida and Alabama, and 263 AOs to systems in Florida, Alabama, Kentucky, Mississippi and North Carolina.

Enforcement Case Summaries

Clean Air Act

Willamette Industries - A settlement was reached between the Department of Justice and Willamette Industries on a major environmental suit under the Clean Air Act alleging that the company failed to control the amount of air pollution released in four states. The settlement agreement requires the company to install state-of-the-art pollution controls at 13 facilities in South Carolina, Arkansas, Louisiana and Oregon. The company must also pay a $11.2 million penalty, the largest ever assessed for stationary source emissions of air pollution. The settlement agreement also requires the Portland-based company to spend an additional $ 8 million on supplemental environmental projects. This settlement has the largest penalty and most extensive injunctive relief of any other case ever brought under the Clean Air Act. The new pollution control equipment required by the settlement is estimated to cost $ 74 million, and will prevent 27,000 tons of pollutant emissions into the environment.

Tampa Electric Company (Florida) - On February 29, 2000, the Department of Justice, on behalf of EPA, filed a Consent Decree under the Clean Air Act to resolve alleged PSD violations at Tampa Electric Company=s (TECO) Gannon and Big Bend Stations. TECO agreed to pay $3,500,000 in a civil penalty, and to control all units at the two coal-fired power plants for particulate matter, oxides of nitrogen, and sulfur dioxide. Gannon Station will be repowered to natural gas combined cycle turbines with selective catalytic reduction for oxides of nitrogen control. Big Bend Station will upgrade its electrostatic precipitators, upgrade its existing scrubbers, and install selective catalytic reduction on all units. TECO will also spend at least $10,000,000 to upgrade burners at Big Bend and finance environmental projects as part of the Tampa Bay Estuary Program. TECO will be required to retire all Title IV Acid Rain allotments generated through the reductions required in this Consent Decree. Therefore, this precedent setting settlement will not only greatly improve the air quality in the Tampa Bay area, but it will ensure that the pollution is not transferred to another part of the country.

E.I. Du Pont de Nemours (Kentucky) - The Department of Justice and EPA reached a $1.5 million settlement on August 1, 2000 with E.I. Du Pont de Nemours (DuPont) related to a catastrophic chemical release in eastern Kentucky that led to the evacuation of several communities surrounding the plant. DuPont is a large chemical manufacturer that failed to maintain a safe facility under the General

Duty Clause of the Clean Air Act. The charge arose from DuPont=s use of cast iron piping in a tank used to store oleum (sulfur trioxide dissolved in sulfuric acid), and the company=s failure to inspect the piping. The oleum solution corroded the cast iron piping, which ultimately fractured leading to the release of 23,800 gallons of sulfuric acid into the air. DuPont agreed to pay a $850,000 penalty and spend about $650,000 to create a state of the art emergency notification system for a 10-county region of Kentucky.

Meyers Bakery Inc. (Florida) - The Department of Justice and EPA Regions 4, 6, 7 & 8 reached a joint settlement with Meyer=s Bakery Inc. of Little Rock, Arkansas, for releasing thousands of pounds of refrigerant to the atmosphere in violation of the Clean Air Act regarding protection of the stratospheric ozone. Meyer=s Bakery agreed to $3.5 million in penalties. This settlement is the largest in the history of the EPA stratospheric ozone protection program. Meyer=s Bakery is a large commercial bakery that produces bread and other bakery goods for distribution throughout the United States and Canada.

Aeroquip Corporation and Aeroquip-Vickers Inc. (Georgia) - A civil judicial case was settled with Aeroquip Corporation and Aeroquip-Vickers Inc. (Aeroquip) on June 14, 2000 resolving Clean Air Act Section 608 violations under the stratospheric ozone program. Aeroquip is a plastics manufacturing facility located in Ben Hill County, Fitzgerald, Georgia, which released an ozone depleting refrigerant, and performed maintenance on appliances containing refrigerant with uncertified technicians. The company agreed to pay $400,000 in penalties. This case represents the third largest civil penalty obtained by the United States for violations of Section 608 of the Clean Air Act.

The NHP Management Company - The Department of Justice, on behalf of EPA, settled a civil case with NHP Management Company, a real estate management company that manages and operates numerous residential properties in the United States. Violations of the stratospheric ozone program under the Clean Air Act were identified at the Runaway Bay Apartments in Lantana, Florida, and the Spring House Apartments in Martinez, Georgia. The company agreed to pay a $99,900 penalty, and perform an Audit of their air conditioning activities at 40 residential properties owned and operated by the company. Ongoing violations detected under the Audit will undergo measures to correct the violations within a specified schedule.

Clean Water Act

Gulf States Steel, Inc. (Alabama) - Gulf States Steel, Inc.(GSSI) owns and operates an integrated steel manufacturing facility in Gadsden, Alabama. On October 17, 1997, the United States filed an action against GSSI on behalf of the Administrator of the EPA, pursuant to 33 U.S.C. ' 1319(b), seeking civil penalties and injunctive relief. The complaint filed in the civil action alleged that GSSI violated the Clean Water Act by discharging processed wastewater in excess of its National Pollutant Discharged Elimination System (NPDES) permit limitations from a point source into Black Creek, a navigable water of the United States.

On June 8, 1999, United States District Judge H. Dean Buttram, Jr. granted the United States' Motion for Summary Judgment as to liability, concluding that the United States had satisfied its burden of showing that there are no genuine issues of material fact and that GSSI was liable for 1000 violations of its National Discharge Elimination System permit from May 1, 1995 to September 30, 1998, comprising 4,290 days of violation. On July 1, 1999, GSSI filed for protection in the United States Bankruptcy Court for the Northern District of Alabama (Docket No. 99-41958-JSS) under Chapter 11 of the Bankruptcy Code as a debtor-in-possession. GSSI planned to reorganize and continue in the steel manufacturing business. Subsequent to the bankruptcy filing, GSSI agreed to settle the Clean Water Act enforcement action with EPA and to consent to entry of a penalty judgment in the amount of $8,000,000. However, based on an analysis of GSSI's ability to pay and the company's pending bankruptcy, the amount of penalty that GSSI was actually to pay was set at $100,000. The terms of this Consent Decree required GSSI to pay the $100,000 civil penalty and complete five (5) supplemental environmental projects valued in excess of $2.6 million.

With respect to additional pending CERCLA claims, GSSI agreed in the settlement to pay up to $6.5 million toward remediation of Black Creek/Lake Gadsden at such time as the Agency issues a decision document (ROD or Action Memo). GSSI's authority to enter into this Consent Decree was subject to the approval of the Bankruptcy Court in the bankruptcy proceeding.

On October 5, 2000, GSSI filed a motion to convert the Chapter 11 bankruptcy to Chapter 7. The motion was granted on November 9, 2000, and a trustee will soon be selected to oversee the liquidation of GSSI's assets. The current Chapter 7 status of GSSI effectively removes the possibility that the Consent Decree entered by the District Court will be approved by the Bankruptcy Court. If the Chapter 7 bankruptcy proceedings continue until the estate is totally liquidated, the facility is likely to become a CERCLA site.

Macalloy Corporation (South Carolina) - On December 29, 1999, DOJ, on behalf of EPA, filed a complaint against Macalloy Corporation (Macalloy), a North Charleston ferroalloy manufacturer, in the U.S. District Court of South Carolina, alleging violations of the Clean Water Act, the Resource Conservation and Recovery Act, and State environmental laws. The State of South Carolina is a co-plaintiff on the complaint.

The NPDES permit for the Macalloy facility allows for 4 permitted outfalls into Shipyard Creek, Charleston, SC, from its furnace cooling/gas conditioning process, ferrochromium slag concentration facility, sanitary wastewater treatment facility, and storm water collection areas. A review of the self monitoring reports submitted by Macalloy denoted over 6500 exceedences of effluent violations for chromium and other metals since 1993, with the level of contamination in some cases exceeding more than 100 times environmentally safe levels. In addition, during a Region 4 multimedia inspection and a EPA / State storm water, wetlands and RCRA program inspection, unpermitted contaminated storm water discharges and RCRA storage and disposal violations were discovered. The facility is known to have disposed of hazardous waste sludge throughout the property and to have filled in low lying marsh lands. A RCRA based action had been taken by the State, however, it did not address the CWA or all the RCRA violations of concern to EPA. Subsequent to the EPA inspections, Macalloy ceased operations in December 1998.

In addition to this lawsuit, EPA has taken a number of other actions at the site to address the widespread contamination, including issuance of RCRA 7003 Order, which was later replaced by a CERCLA removal order to the facility. Region 4 has subsequently negotiated a CERCLA order for the RIFS work at the site and has commenced the process to list the Macalloy property on the National Priorities List. Of additional note is the fact that this matter is part of a larger Community Based Environmental Project (CBEP) for the Charleston, SC, area which includes significant community involvement and other potential community related activities and possible enforcement actions. The State has been a partner in these activities.

Paul Phypers, Happiness Farms, Inc., et al. (Florida) - On June 28, 2000, the United States filed suit against Paul Phypers, DP Partners, PGP Partners, and Happiness Farms, Inc., for violations of Section 301 and 404 of the Clean Water Act (the AAct@). The suit relates to property in Highlands County, Florida, adjacent to Lake Istokpoga. The defendants mechanically land cleared an 80 acre site immediately adjacent to the lake. The property was farmed in the 1960s but had regrown as a forested wetland, and the defendants cleared the property in order to convert it to caladium farming. The clearing and windrowing of cleared material resulted in substantial discharges of dredged and/or fill material. In addition, the defendants have reexcavated remnant ditches, side casting dredged material into wetlands at the Site, and have discharged wood chips in significant volume (up to 14 inches deep) over a several acre portion of the Site. Many of the defendants activities occurred after a cease and desist/restoration order had been issued by EPA to the defendants. The complaint seeks an injunction requiring restoration of the site and/or off-site mitigation for the violations, together with assessment of civil penalties for the violations.

Comprehensive Environmental Response, Compensation, and Liability Act

Rutledge Superfund Site, a.k.a. Rock Hill Chemical Company Site (South Carolina) - On April 25, 2000, EPA Region 4 entered into a CERCLA Section 122(h)(1) Agreement for Recovery of Response Costs with BASF (Inmont) Corporation, Burlington Industries, Incorporated, Chase Packaging, Incorporated, CTS Corporation, Engraph, Incorporated, FMC Corporation, Lithium Division, Hoechst Celanese, now doing business as, CNA Holdings, Inc., Homelite Division of Textron and W.R. Grace and Company (“PRPs”) for costs incurred by the EPA in conducting response actions as a result of the release of hazardous substances at the Rutledge Superfund Site in Rock Hill, York County, South Carolina (the “Site”). These generator PRPs are liable for costs under Section 107(a) of CERCLA, 42 U.S.C. ' 9607(a). The PRPs have executed an Agreement administratively for settlement of their liability and for recovery by the United States of past response costs. An unusual component of this Agreement is that in addition, these PRPs agreed to jointly and severally complete future work required pursuant to a Unilateral Administrative Order (UAO) issued in 1994. The UAO remains independently enforceable and is the authority upon which EPA is requesting the PRPs complete future work and pay future oversight cost at the Site for a total recovery for EPA of $3,904,776. EPA offered a twenty-two percent (22%) orphan share.

Rock Hill Chemical Company (RHCC) operated a solvent recovery facility at the Rutledge Property from 1960 to 1965. The company distilled paint solvents and textile dye products. RHCC was an informal partnership between Lawrence Leonard, who operated the facility, and William Rutledge, who owned the property where the facility was located. Mr. Leonard, now insolvent, makes up the orphan share. The RHCC accepted contaminated oils solvents, and other wastes, separated the oils and solvents and sold them back to generators. Operations ceased when a fire destroyed the facility in 1965, resulting in contamination of the Site due to residues, spills and remaining storage tanks.

U.S. v. Jack L. Aronowitz, et al. (Florida) - On January 31, 2000, the United States District Court for the Southern District of Florida, Fort Lauderdale Division, entered a judgment against Defendants, Jack L. Aronowitz and his company, Technical Chemicals and Products, Inc., and ordered them to pay past remaining costs of $401,177, plus interest and enforcement costs in EPA's CERCLA Section 107 Cost Recovery action to recover costs incurred at the Lauderdale Chemical Warehouse Site. On April 26, 2000, this Court granted the United States' Request of Award of Trial and Related Expenses, holding the defendants jointly and severally liable for an additional amount of $348,383.

In 1994, EPA conducted a fund lead removal action at the Lauderdale Chemical Warehouse Site, in Ft. Lauderdale, Florida to remove chemicals that had been abandoned at the Site. From late 1977 through October 1992, this Site was used as a medical diagnostic chemical manufacturing plant, processing plant, and chemical storehouse. In a referral submitted to the Department of Justice in August of 1997, EPA requested a cost recovery suit be brought against the former owner/operators at the facility, Dr. Theodore Holstein, Jack L. Aronowitz and his company Technical Chemicals & Products, Inc., D.H. Blair & Co. and its President, Kenton Wood. EPA settled with D.H. Blair & Co. and Kenton Wood for $80,000. EPA has also settled with Theodore Holstein for $230,000. EPA then went to trial for two weeks before the U.S. District Court for the Southern District of Florida to seek a judgment that the remaining potentially responsible parties, Jack L. Aronowitz and his company, Technical Chemicals and Products, Inc., pay all the United States' outstanding costs in this case, plus the costs of the trial. On January 31, 2000 the Court found for the United States, and against the defendants who are ordered to pay the United States' outstanding costs of $401,177, plus interest and enforcement costs.

Trans Circuits, Inc. (Florida) - On September 7, 2000, the United States entered into a Prospective Purchaser Agreement (PPA) with National Land Company, Inc. regarding the Trans Circuits, Inc. Superfund Site in Lake Park, Palm Beach County, Florida. EPA received $28,750 pursuant to the PPA. The PPA requires National Land Company to pay approximately $180,000 for the outstanding property taxes on the property. In addition, National Land Company paid the lender that foreclosed on the property $96,250 (less than 40% of the amount the lender was entitled to pursuant its summary judgment verdict) for the property. National Land Company will have to spend approximately $150,000 to repair the dilapidated building to make it suitable for use.

The Trans Circuits Site is located in Lake Park, Palm Beach County, Florida. The facility was an electroplating and manufacturing plant of electronic components and subassemblies for electronic circuit boards from 1978 to 1985. The Site is no longer active, and is located in an industrial park, near a residential area. The site was proposed to the National Priorities List (NPL) on October 21, 1999, and was listed on the NPL on February 4, 2000. EPA is currently conducting a Remedial Investigation and Feasibility Study for the Site. Contaminants of concern in ground water are primarily volatile organic chemicals, including trichloroethylene (TCE), perchloroethene (PCE), and 1,1-dichloroethene. EPA does not currently have any liable, viable PRPs at the Site.

Trans Circuits, Inc. was the owner of record of the Site. Trans Circuits, Inc. was involuntarily dissolved by the State of Delaware on or about March 1, 1994. The last year that Trans Circuits, Inc. payed the taxes was in 1991. Prior to the PPA, the building was in a dilapidated state and it was being used by vagrants. This PPA will return a blighted property into a productive use, reduce the fire hazard posed by the building, ensure that the property taxes on the property are paid, and prevent the development of a greenfield.

***Anodyne (Florida)* -** On July 13, 2000, the United States District Court for the Southern District of Florida entered the Consent Decree for Zone 1 of the Anodyne, Inc. Superfund Site. The Site is located in North Miami Beach, Dade County, Florida. The Consent Decree requires the Settling Defendants to reimburse EPA for $35,705 for EPA=s past costs at the Site. The Settling Defendants also agreed to perform the Zone 1 Soils Remedy and the first five years of Zone 1 groundwater monitoring in the Consent Decree. The estimated costs of the remedy required by the Consent Decree is $1,000,000.

EPA completed the remedial design for the Anodyne, Inc. Site in March of 1996. Anodyne, Inc., the primary source of contamination at the Site, engaged in various manufacturing activities, including the production of anodized aluminum products, lithographs, and silk screen prints from 1960 to 1978. Anodyne, Inc. filed for bankruptcy in 1977 and was dissolved in 1978. The Settling Defendants included six parties who were either current owners and/or the owner at the time of disposal. EPA is currently involved in litigation with a recalcitrant PRP (Continental Equities, Inc.)

***Danmark (Florida)* -** On April 14, 2000, EPA finalized a settlement with 59 Settling Parties for recovery of EPA=s past costs associated with the removal action taken at the Danmark Superfund Site, Tampa, Hillsborough County, Florida (the Site). This settlement, pursuant to Sections 107(a) and 122(h) of CERCLA provides for the reimbursement by the Settling Parties of $516,374.57 in response costs incurred by EPA in responding to the release of hazardous substances at the Site.

The Danmark Site is a former used oil hauler, collection and recycling facility which was operated by various Danmark companies from 1989 to 1993. EPA completed the transportation and disposal phase of the removal action at the Danmark Site in March of 1996. During the removal action, approximately 80,000 gallons of liquid waste and 150 tons of solid waste (stockpiled soils, used oil filters and sludge) were processed and disposed of off-site. William Michael Shaw was the operator of the Danmark Site and the president and general manager of Danmark. Mr. Shaw plead guilty to storing a hazardous waste without a permit in violation of section 3008(d)(2)(A) of the Resource Conservation and Recovery Act (RCRA) and received probation. Mr. Shaw did not join the settlement because EPA determined that Mr. Shaw did not have the financial ability to do so. Since both the operator and most of the largest generators were orphan parties, EPA agreed to compromise 25% of its response costs pursuant to the Orphan Share Policy. This settlement requires the Settling Parties to waive their contribution rights against parties that sent less than 2,000 gallons of materials to the Site.

Holloway Waste Oil Superfund Site (Florida) - On December 14, 1999, the Holloway Waste Oil Superfund Site (Site) settlement was finalized. This settlement, pursuant to Section 107(a) of CERCLA, provides for the reimbursement by 100+ generators of waste oil of $1,289,852 in response costs incurred by EPA. The total costs at the Site were $1,719,803, however EPA determined that the Site was eligible for the Orphan Share Policy and compromised 25% of past costs in recognition of the insolvency of the owner/operator.

The Site is located in Jacksonville, Florida, and operated as a waste oil recycling facility for over 15 years. The facility operated until 1995, when the U.S. Internal Revenue Service temporarily seized the property for nonpayment of taxes. The owner/operator subsequently abandoned the facility and all the waste oil on the premises. EPA initiated removal activities on August 23, 1995, which included the removal of bulked waste material, soil and storage tanks. In addition, over 71,000 gallons of PCB aqueous liquids was discovered and sent off-site for proper disposal. EPA demobilized from the Site on July 15, 1996.

EPA began cost recovery enforcement actions in 1998, by deposing the owner/operator. The enforcement case was based entirely on the owner/operator=s testimony and Information Request responses because all operating records had been destroyed. EPA was able to identify 100+ PRPs from this information and entered into negotiations. The PRPs generated a three- tiered volumetric based on their estimation of waste oil sent to the Site and agreed to settle under the terms of the 122(h)(1) Agreement for Recovery of Past Costs.

Chemspray, Inc. Site (Florida) - On April 27, 2000, the United States District Court for the Southern District of Florida entered two Consent Decrees and issued a favorable Summary Final Judgment for the Chemspray, Inc. Site, Pahokee, Palm Beach County, Florida. The two Consent Decrees entered by the Court represent settlements with two groups of defendants: one Consent Decree was between the United States and the Owner/Operator/Defendant Group (OODG) in the amount of $470,000; and the other Consent Decree was between the United States and the Owner/Transporter/Defendant Group (OTDG) in the amount of $53,325. The combined settlement payments from the two Consent Decrees is $523,325. EPA=s total Site past response costs were $865,583. The total $523,325 settlement payments from the OODG and OTDG represent 60% of total Site past response costs. The Court also issued a Summary Final Judgment in favor of the United States against the two remaining party Defendants in this matter.

On December 8, 1997, the United States filed a civil action in the U.S. District Court for the Southern District of Florida, West Palm Beach Division, for the recovery of past Site response costs. The complaint was filed against Chemspray, Inc. (ACI@); Glades Formulating Corporation (AGFC@); Juan F. Montalvo, Sr.; John C. Hatton; David E. Hill; and Annie P. Hill. Through the dynamics of negotiations and litigation strategy, the Defendants developed into two groups: the OODG comprising CI; GFC; Juan F. Montalvo, Sr.; John C. Hatton; David E. Hill; and Annie P. Hill; and the OTDG comprising Hercules Incorporated (AHI@); Nor-Am; Boots Company, Inc., and Schwerman Trucking Company. HI and subsequently, Nor-Am Chemical Company, Knoll Pharmaceuticals f/k/a the Boots Company (USA), Inc., and Schwerman Trucking Company were brought into the action through third party claims made by CI, Juan F. Montalvo, Sr. and GFC.

The CI facility was located at 1550 East 7th Avenue, Pahokee, Florida. Pahokee is in Palm Beach County, on the shores of Lake Okeechobee. The hazardous substances found on Site are attributed to CI=s years of operation. The hazardous substances of concern found at the Site were pesticides. Site investigation revealed the presence of parathion, dieldrin, endrin, ketone, total DDT, and toxaphene in high concentrations.

T. H. Agriculture & Nutrition Site (Alabama) - On July 10, 2000, the U. S. District Court for the Middle District of Alabama entered the Consent Decree between the United States and the Settling Defendants (T H Agriculture & Nutrition, Inc. (THAN); Elf Atochem of North America, Inc. (Elf); Industrial Chemicals, Inc. (IC); and, Astro Packaging, Inc. (AP). Under the terms of the Consent Decree, the Settling Defendants will implement the selected remedy for the Site. Specifically, the Settling Defendants will: treat Site contaminated soils through excavation, biological treatment and replacement; implement institutional Site controls which will include fencing and deed restrictions limiting Site use for industrial purposes only; continue the interim remedial action groundwater remedy until the groundwater performance standards are met; and pay EPA=s future Site costs. The estimated costs to the Settling Defendants to perform the selected remedy is $7,482,000.

The Site is located on the west side of Montgomery, Alabama, about two miles south of the Alabama River and 1,600 feet west of Maxwell Air Force Base. Access to the Site is from U.S. Highway 31-82. The Site is basically flat and includes two properties: the THAN property and the Elf Atochem property. The Site covers 16.4 acres, with the THAN property covering about 11.6 acres and the Elf Atochem property covering 4.8 acres.

The Settling Defendants handled pesticides which led to releases into the environment. The surficial aquifer beneath the Site is contaminated with pesticides, including Delta-BHC, lindane, DDT, and chlordane, herbicides; volatile organic compounds, including trichlorethene and tetrachlorethene; and semivolatile compounds. Site remediation is occurring under two operable units. The first operable unit was based on an Interim Action Record of Decision which recommended a remedy of a groundwater pump and treatment system with discharge to the local wastewater treatment plant. The remedial action/remedial design for the first operable unit is being carried out under a previous Consent Decree. The present Consent Decree will implement the Final Action Record of Decision for this Site.

Arkwright Site (South Carolina) - On November 23, 1999, Region 4 signed an Administrative Order On Consent (AOC) for a Remedial Investigation/Feasibility Study (RI/FS) with the City of Spartanburg, South Carolina for the Arkwright Dump Site (Site). The AOC provides that the City will conduct the RI/FS and pay all EPA=s past costs and oversight costs connected with the Site. Under the terms of the AOC, the City will also provide a Technical Assistance Grant to the local community.

The Site is located on Hilltop Lane in Spartanburg County, South Carolina. The immediate vicinity of the Site includes residential, industrial, and undeveloped areas. During the 1950s and 1960s, a dump (later a landfill) was operated on the Site by the City of Spartanburg for the disposal of municipal wastes. Available information indicates that medical, automotive, and other wastes were also disposed of in the landfill. In 1972, the dump was closed and a soil cover placed over the buried wastes. The Site was identified to EPA in February 1998 by the leader of a local community group, Re-Genesis, Inc. Based on a Re-Genesis report, EPA conducted a Preliminary Assessment between June and September 1998. The assessment recommended that a Site Inspection (SI), which includes sample analysis, be performed. The SI completed in May 1999, confirmed the presence of a number of hazardous substances, including inorganic compounds (heavy metals), pesticides, and organic chemicals. These substances were present in soils, groundwater, surface water, and sediment. Site contaminants were also detected in two nearby private drinking water wells. EPA Emergency Response and Removal Branch connected the two residences to the Spartanburg municipal water supply. Based on the results of the SI, EPA began discussions with the City of Spartanburg concerning the need for further investigation and cleanup at the Site and the possibility of the Site raking on the National Priorities List (NPL).

Following those discussions, the City of Spartanburg, entered into an AOC to conduct a RI/FS for the Site. Under the terms of the AOC, the City will conduct the RI./FS, pay EPA=s past and oversight costs connected with the Site, and provide a Technical Assistance Grant (TAG) to the local community. As EPA has not placed the Site on the NPL the community would not be eligible for a federal TAG. The Site has also been selected as a Federal Interagency Environmental Justice Demonstration Project. The project is designed to involve a variety of stakeholders working together to identify, inventory , assess, remediate and redevelop contaminated sites. Re-Genesis has received more than a million dollars in private, state and federal grants to fund the redevelopment project.

The Arkwright area is on the south side of the city and has a 96% African American population. The community is within a quarter mile of two superfund sites. Other areas of concern include an abandoned textile mill and operating chemical plant, two dumps and several suspected illegal disposal areas. These properties have brought concerns about public safety, blight, health and the environment for some time. The area has not enjoyed any substantial commercial development for years an the vast majority of normal retail needs are not within close proximity. EPA, and several other federal and state agencies are working closely with Re-Genesis to help revitalize the area into a livable, safe, sustainable community.

Memphis Container (Tennessee) - On September 7, 2000, Judge Julia Smith Gibbons of the United States District Court for the Western District of Tennessee entered a Partial Consent Decree (Civil Action No. 98-2859 G V) with the owner PRP at the Memphis Container Superfund Site (Site). The United States filed a Motion to Lodge the Partial Consent Decree with the owner on June 28, 2000. Under the settlement, the owner shall pay $20,000 plus interest in reimbursement of past response costs within 30 days of entry of the Consent Decree. The owner shall make a second payment of $17,500 plus interest within one year of the effective date of the agreement. The owner shall make a third payment of $17,500 plus interest within two years of the effective date of the agreement. Additionally, the owner will transfer $20,000 of the sale of the Site property to the United States. Therefore, this settlement, pursuant to Section 107(a) of CERCLA, provides for the reimbursement by the owner of $75,000 in response costs incurred by EPA in responding to the release of hazardous substances at the Site. The initial Complaint in this case was filed on October 2, 1998, against the owner of the Site, Mrs. Lucille Ryan, the operator of the Site, Mr. Michael Eason, and against five generator PRPs in the Western District of Tennessee. The United States reached agreement with the five generator PRPs and that Partial Consent Decree was entered on September 9, 1999. That Partial Consent Decree resulted in the payment of $600,000.

The Site is located in Memphis, Shelby County, Tennessee. Memphis Container was a drum recycling business operated by Mr. Michael Eason from 1986 to 1991. The Site contained approximately 9,000 drums scattered throughout the Site in various stages of deterioration, many of which were leaking. Contaminants found on Site consisted of various hazardous substances found in drums located on the Site, as opposed to any significant soil contamination. The contaminants detected from drum samples included benzene, ethyl benzene, naphthalene, trichloroethylene, xylene, carbon disulfide, methylene chloride, styrene, tetrachloroethylene, 1,2- dichlorobenzene, methyl ethyl ketone, and 2,4, pentandione. In addition, five drums containing hydrofluoric acid were found on Site. Removal actions at the Site started in July 1993.

Geiger (C&M Oil) (South Carolina) - On September 13, 2000, after a 30 day notice and comment period, EPA finalized an Administrative Order on Consent (AOC) pursuant to Section 122(g)(4) of CERCLA with two *de minimis* PRPs for the Geiger (C&M Oil) Superfund Site (Site). The settlement with *de minimis* generator PRPs Textron Inc., and Charleston Packaging Company, provides for the reimbursement of $61,281 in response costs at the Site. Additionally, on September

27, 2000, after a 30 day public notice and comment period, EPA finalized an AOC with three *de maximus* PRPs for the Site. The settlement with the current owner, Pile Drivers Inc., and *de maximus* generator PRPs Department of the Army and Department of the Navy, provides for the reimbursement of $5,870,506 in response costs. Both settlements took into account a 25% orphan share for orphan owner operators and included a premium on future costs at the Site. A special account was set up for the estimated future costs to pay for ongoing remediation at the Site.

The Site is located in Rantowles, Charleston County, South Carolina. It was the location of a waste oil recycling and industrial waste incineration operation owned and operated by United Pollution Control from 1968 to 1971. Waste oil was retained in unlined pits on the property and used to fuel the incinerator. Soil and groundwater samples indicated that the Site was contaminated with lead, chromium and VOCs. EPA began a fund lead remedial action in 1983.
The remediation of the soil has been completed and consisted of stabilization and solidification of contamination in place. Groundwater remediation is ongoing and consists of monitored natural attenuation. At the time of the settlement, EPA had incurred $6,934,860 in response costs. Future costs are estimated at $432,824. The two settlements combined amount to a recovery of $5,931,786.

Federal Insecticide, Fungicide, & Rodenticide Act

Novartis Crop Protection, Inc. (North Carolina) - On March 9, 2000, a ratified Consent Agreement and Final Order (CAFO), Docket No. FIFRA-04-2000-0011(b), was filed in accordance with 40 CFR 22.13(b) to simultaneously commence and conclude the matter involving the import of a misbranded pesticide by Novartis Crop Protection, Inc of Greensboro, North Carolina. This combined document is referred to as a CAFO(b). Novartis Crop Protection, Inc. imported Prodiamine Technical which bore a Texas Establishment Number although it was produced in Great Britain. The shipment was misbranded per Section 12(a)(1)(E) of FIFRA. The CAFO(b) assessed a penalty of $2,970 and set forth the conditions under which we would allow the label error to be corrected.

The John Girvan Company, Inc. (Florida) - A CAFO(b) was filed in the matter of The John Girvan Company, Inc. of Jacksonville, Florida, for distribution of the unregistered algicide, AProteam Mustard and Black Magic@ and the misbranded registered pesticide AProteam Power Magic.@ The CAFO(b), Docket No. FIFRA-04-0052(b), was filed on September 7, 2000. The distribution of an unregistered pesticide is a violation per Section12(a)(1)(A) of FIFRA. The distribution of a misbranded pesticide is a violation per Section12(a)(1)(E) of FIFRA. In the settlement Girvan agreed to pay an $8,250 penalty and register the algicide AProteam Mustard and Black Magic.@ The misbranded AProteam Power Magic@ was from old stock, produced prior to the registration of the product.

PPG Architectural Finishes, Inc. (Pennsylvania) - A CAFO(b) was filed in the matter of PPG Architectural Finishes, Inc., located in Pittsburgh, Pennsylvania, for sale and distribution of paints that contained antimicrobial pesticidal claims beyond those allowed in the Atreated article exemption@

and production of a pesticide in an unregistered establishment. The CAFO(b), Docket No. FIFRA-04-2000-0056(b), was filed on September 29, 2000. The company has agreed to: (1) change the labeling on the Porter paints which continue to have violative labeling; (2) place signs advising the affected paints contain the antimicrobial pesticide Intersept only to protect the film of the paint; and (3) pay a penalty of $96,720.

Controlled Release Technologies (Florida) - A CAFO(b) was filed in the matter of Controlled Release Technologies, Inc., located in Clearwater, Florida, for the sale and distribution of unregistered and misbranded pesticides. The CAFO(b), Docket No. FIFRA-04-2000-0041(b), was filed on September 29, 2000. Controlled Release Technologies is a HVAC company that produced several APanGuard@ products and a AFirst Strike@ product which were unregistered and made pesticidal claims including public health claims. The company also produced a AMicroGuard@ product which was misbranded in that the literature made claims that differed from its registration and the AMD HVAC System,@ which was distributed without the EPA Establishment Registration Number. Controlled Release Technologies, Inc. agreed to pay a penalty of $20,640.

Resource Conservation & Recovery Act

Kentucky Plating Company (Kentucky) - Kentucky Plating Company, located in Louisville, Kentucky, performs electroplating on small metal parts. The facility is a small business with less than 20 employees. EPA has conducted three joint inspections at the facility with the Kentucky Department for Environmental Protection (KYDEP) and on all three of these inspections, major RCRA violations were documented. The majority of the violations were for failing to make hazardous waste determinations and for failing to maintain the facility to prevent a release to the environment.

Based on the joint EPA-KYDEP inspections, EPA referred the site to OSHA for unsafe conditions at the facility. Consequently, OSHA conducted an inspection and fined Kentucky Plating for OSHA violations. KYDEP signed an Agreed Order with Kentucky Plating in 1999 which required characterization of materials at the site and the off-site disposal of hazardous waste. Kentucky Plating failed to comply with this Order, and in June, 2000, KYDEP issued Kentucky Plating a Demand Letter with a $20,000 penalty for failing to comply with the Agreed Order. In March, 2000, EPA and KYDEP conducted another inspection at Kentucky Plating and found that conditions had improved, but that the facility needed much more work before it could return to compliance with RCRA.

In March, 2000, a worker was injured at Kentucky Plating while mixing incompatible hazardous wastes. OSHA performed an inspection following the incident and fined Kentucky Plating again. Based on the findings noted during the March, 2000, EPA-KYDEP inspection, the OSHA findings, and the accident, EPA decided that this facility posed an imminent and substantial endangerment to human health and the environment. On September 29, 2000, EPA issued a RCRA Section 7003 Administrative Order (Docket No.: RCRA-04-2000-25) to the facility, requiring

Kentucky Plating to assess the property for contamination, make hazardous waste determinations, send hazardous waste off-site, cease the use of wastewater treatment tanks, provide assessments for wastewater treatment tanks, provide employees with personnel training, and otherwise comply with all RCRA requirements. On October 12, 2000, Kentucky Plating Company notified EPA that it would comply with all conditions of the RCRA Section 7003 Order and that it would be ceasing operations no later than November 1, 2000.

LWD, Inc. (Kentucky) - LWD owns and operates a commercial hazardous waste storage and treatment facility located in Calvert City, Kentucky. LWD operates three hazardous waste incinerators at its treatment facility. LWD has AInterim Status@ to operate the Calvert City facility pending final administrative disposition of its Part B application to EPA and the Kentucky Department of Environmental Protection for a RCRA operating permit. After LWD refused to address EPA=s second Notice of Deficiency for a Trial Burn Plan for Risk Assessment, RCRA Permitting formally referred the matter to EPA RCRA Enforcement & Compliance.

EPA determined that LWD=s dioxin stack emissions were sufficient to utilize RCRA Section 3013 authority to further evaluate the potential risk to human health and the environment. This determination was based on an internal screening risk assessment and a comparison to the then-proposed Amaximum achievable control technology@ (MACT) standards for dioxin. In February 1997, EPA issued the Section 3013 Order, requiring LWD to submit a written proposal to EPA, within thirty days, for carrying out a Trial Burn for Risk Assessment purposes.

On November 13, 1998, Region 4 notified LWD, that the Region was approving LWD=s Trial Burn Plan for the Risk Assessment Trial Burn. In correspondence dated December 2, 1998, LWD objected to the implementation of the Trial Burn Plan and refuted the Agency=s authority for requiring the risk assessment. In February 1999, EPA referred the case to US Department of Justice, seeking enforcement of the Section 3013 Order, in the Federal Court in the Western District of Kentucky.

DOJ filed a lawsuit in federal court seeking judgment that LWD violated the terms and conditions of the administrative order and civil penalties for its noncompliance therewith. Several motions were filed in this case including EPA=s motion for summary judgment. In September 2000, the Federal Court in the Western District of Kentucky denied LWD=s motion for a preliminary injunction and stay; granted EPA=s Motion for Record Review; granted DOJ Defense=s motion to dismiss counterclaim counts 1-9; granted EPA=s motion for summary judgment on LWD=s counterclaim counts 10-14 & 16; granted EPA= motion for summary judgment on LWD=s counterclaims 11&12 and granted EPA= motion for summary judgment on Liability.

The Court denied EPA=s motion to strike LWD=s affidavit and granted LWD=s motion to supplement the record. However, these denials had no negative impact on the outcome of the case. In fact, it had a positive impact on the case because, the Court is saying that it looks at the plethora of materials and affidavits submitted by LWD, allowed them into the Record over EPA=s objection, and issued favorable rulings for EPA.

Beverage Body and Trailer (Florida) - Beverage Body and Trailer Corporation has two facilities, located in Leesburg and Hollywood, Florida. The company refurbishes, repairs, and fabricates medium and heavy duty beverage delivery trucks at these facilities. Since 1997, the Florida Department of Environmental Protection (FDEP) and/or EPA has conducted between two and four inspections at each facility. In addition to several violations of hazardous waste generator requirements, FDEP and EPA were concerned that the company's paint stripping operations may have resulted in a release of hazardous waste or hazardous waste constituents into the environment. While environmental sampling indicated that the paint stripping operations did not result in a release of hazardous waste constituents, a plume of methylene chloride was discovered at the Leesburg facility. The source of this plume has not been determined.

On September 27, 2000, Beverage Body and Trailer entered into the Administrative Consent Order (Docket Nos. RCRA-04-2000-007 and RCRA-04-2000-008) requiring characterization and remediation of the methylene chloride plume and payment of a $ 98,940 penalty.

Brown Wood Preserving (Alabama) - In May of 2000, the Alabama Department of Environmental Management (ADEM) referred Brown Wood Preserving to EPA because of concerns over illegal storage practices that occurred at the facility. As a result, on June 6, 2000, EPA conducted an inspection at the facility finding numerous violations, including cracks in the concrete in the secondary containment area where liquid that clearly appeared to be contaminated with creosote was being released. Also, waste releases were observed in the wetlands and creek adjacent to the site and the illegal storage of F032 and F034 creosote contaminated waste water in two of three tanks located at the north end of the facility. Samples collected by EPA during a case development inspection on July, 24, 2000 showed that numerous releases of hazardous waste and hazardous waste constituents have occurred. A RCRA Section 3013 Order was issued to Brown Wood on September 28, 2000, requiring Brown Wood to determine the nature and extent of risk to human health and the environment posed by the hazardous waste and /or hazardous waste constituents that were released at the facility.

Wood Treating, Inc. (Mississippi) - Wood Treating Inc. (WTI) operated a wood treating facility utilizing both creosote and Copper-Chrome-Arsenic preservative solutions. During EPA=s inspection conducted in 1999, the facility had virtually ceased all production activities. The site was severely contaminated with creosote and had released contaminants to surrounding waterways. These waterways bordered a playground and meandered throughout several residential areas. EPA issued a RCRA Section 7003 Order to address the imminent and substantial endangerment posed by WTI. The case has since been referred to CERCLA.

Lee Brass Company (Alabama) - Lee Brass Company, located in Anniston, Alabama, is a brass foundry that produces parts for the plumbing industry, performs some custom casting work, and also produces brass ingots from scrap metal. During a joint inspection conducted by the Alabama

Department of Environmental Management and EPA, it was determined that Lee Brass was illegally treating foundry sand containing high lead levels. Lee Brass was then taking the treated foundry sand and selling it for use as fill material and for use in topsoil. Lee Brass had also donated some of this treated sand to local schools for use on the ball fields.

On September 30, 1999, EPA referred this case to the Department of Justice. During the course of the investigation, EPA discovered that the treated foundry sand had lead levels ranging from 960 ppm to 1,000 ppm. From a residential risk assessment standpoint, total levels are a concern if above 400 ppm. Therefore, on October 29, 1999, EPA issued a § 7003 Administrative Order (Docket No. RCRA-4-99-0014) requiring Lee Brass to locate and, if necessary, remediate the eventual disposal sites for their treated foundry sand.

Flura Corporation (Tennessee) - Flura Corporation, located in Newport, Tennessee, was a laboratory which primarily synthesized fluoridated bromine compounds. Flura utilized a large volume and variety of chemicals and gases. It had been operating at that location since 1988. During many of the inspections conducted by EPA and the Tennessee Department of Environment and Conservation (TDEC) in 1999 and 2000, Flura was discovered to be illegally treating, storing, and managing hazardous wastes, such as: 1,2-dichloroethane, arsenic, barium, cadmium, chromium, lead, toluene, xylene, and cyanide. Due to the mismanagement of hazardous waste and materials at Flura, the facility had contaminated local residential wells and on-site soils as well as endangered worker safety.

During the inspections, EPA and TDEC observed over 2,000 containers, many containing rejected chemical products, off-spec chemicals, decaying chemicals, and unknown chemicals showing evidence of phase separation, crystallization, and/or precipitation. Many of the containers were corroded, rusted, and leaking. Flura Corporation could not identify the contents of many of the containers throughout the facility nor could it state the length of time the chemicals had been stored on-site.

On April 20, 1999, the State of Tennessee referred this case to EPA. An emergency EPA Superfund removal was performed on April 27, 1999, at Flura on a 20,000 gallon wastewater treatment tank which was at the point of catastrophic failure. Based on the hazardous conditions discovered as a result of the numerous inspections and sampling investigations, EPA issued an Imminent and Substantial Endangerment Order pursuant to Section 7003(a) of RCRA on June 17, 1999 to Flura. On September 23, 1999, EPA referred enforcement of the § 7003 Order to DOJ, since Flura has not complied with the Order thus far, and coupled with the facility=s bankruptcy filing, increased EPA's concern that the threats posed by the facility may not be addressed by FluraSeveral additional inspections where conducted at Flura since the issuance of the § 7003 Order. Each inspection and site visit documented that the conditions and operations of the facility had **not** improve; and Flura continued to violate the June 17, 1999, Order and other significant regulations. On March 30, 2000, EPA issued a second Section 7003 Imminent and Substantial Endangerment Order to Flura requiring Flura to cease operations at the facility upon receipt of the Order until it can demonstrate compliance with all applicable laws and regulations.

In a April 4, 2000 letter submitted to EPA on, Flura certified that its facility had ceased operations permanently on March 30, 2000. On April 3, 2000, EPA Superfund took control of the site by securing the access to the property and immediately addressing imminent hazardous conditions.

R & R Distributing Company (Tennessee) - On August 31, 2000, DOJ, on behalf of EPA, Region 4, filed a civil action against R & R Distributing Company (R&R) in the Federal District Court, Middle District of Tennessee, for violations of the requirements for underground storage tanks (USTs) found in Section 9003 of RCRA, 42 U.S.C. ' 6991b, and its implementing regulations at 40 C.F.R. Part 280.

R & R is a petroleum distributor who delivers petroleum products to underground storage tanks (UST) systems and is the owner and/or operator of approximately 74 USTs at 33 facilities in the Columbia, Tennessee area. Most of these facilities consist of small to medium-sized convenience stores and gasoline stations. In June 1998, Region 4 inspected R & R facilities and found numerous violations of the UST regulations. Previous enforcement actions taken by the State had failed to bring R & R into compliance with the UST regulations. This civil judicial action was brought in order to collect civil penalties and obtain injunctive relief for violations of the UST regulations at nineteen (19) of R&R=s facilities. The violations include failure to perform release detection, failure to comply with closure requirements, and failure to demonstrate financial responsibility. The State of Tennessee is a co-plaintiff in this case and has been fully involved in the action and in development of the complaint.

Safe Drinking Water Act

Barefoot Farms, Inc. (North Carolina) - Barefoot Farms, Inc. is an hog farm facility, which is owned by Mr. Terry Barefoot. Barefoot Farms, Inc. was targeted for enforcement action in the Spring of 1999. The decision to focus on Barefoot=s operations followed the discovery of impacts on private water well supplies from abandoned and active waste lagoon facilities throughout several counties in North Carolina. EPA conducted field investigations at Barefoot Farms, Inc. which led to the development and issuance of a § 1431 Emergency Administrative Order for violations of the SDWA.

Barefoot Farms, Inc. has impacted or contributed to contamination of an underground source of drinking water (USDW) which has caused an imminent and substantial endangerment of persons using the USDW. The main pollutant involved for causing the contamination is Nitrate. The § 1431 Emergency Administrative Order, which Barefoot Farms, Inc. has signed and agreed to, was issued on June 26, 2000 (Docket No. SDWA-04-2000-0060). No penalties were assessed in the Order, only injunctive relief. The Order requires Barefoot Farms, Inc. to provide short-term relief of water supply for two residences and to conduct a study of all surrounding residences (5 total private water wells). The Order also allows Barefoot Farms, Inc. to propose an alternate permanent water supply source to residential wells that are contaminated. To date, Mr. Barefoot has installed 2 deeper permanent drinking water wells, completed the residential study of surrounding private wells, completed the first round of quarterly sampling of private wells, and has proposed to replace a third private well with a new deeper water well. Currently, EPA is reviewing the data results of the first quarterly sampling event and the proposal for replacement of another private water well.

Toxic Substances Control Act

Bowater, Inc. (South Carolina) - On September 20, 2000, EPA Region 4 filed a Consent Agreement and Consent Order (Docket No. TSCA-4-2000-0101(b)) against Bowater Inc., in Catawba, South Carolina for violations of the Toxics Substance Control Act (TSCA). EPA pursued the violations cited which included storing combustible materials within five meters of Polychlorinated Biphenyals (PCB) transformers, failing to label the accesses to PCB Transformers located in the #3 Winder Remote Control Room and the Area 34 Super Calendar Area, failing to produce a complete 1995, 1996, 1997, and 1998 Annual Document Logs, and failing to produce records of daily inspections of six leaking PCB Transformers. Bowater, Inc. agreed to pay a final assessed penalty of $26,180 and to perform a Supplemental Environmental Project (SEP) totaling at least $2,250,000. The SEP includes the replacement and disposal of 12 PCB Transformers. No later than November 15, 2001, Bowater, Inc., shall submit an affidavit attesting that the SEP has been completed or explain in detail any failure to complete it and copies of documentation showing a minimum amount of $2,250,000 for expenses. In addition, Bowater shall provide documentation showing proper manifesting, transportation, and disposal of the PCB Waste generated, a signed manifest and certificate of disposal.

Criminal Enforcement

American Airlines (Florida) - AMR Corporation (AAMR@) is a Delaware corporation that owns and operates various subsidiary companies including American Airlines, Inc. (AAmerican Airlines@). American Airlines is engaged in the business of transporting airline passengers, their luggage, and other materials carried aboard aircraft on behalf of its customers. American Airlines operates airline services out of various airport facilities across the United States and elsewhere in the world. One of the facilities that American Airlines operates at is the Miami International Airport, located in Miami, Florida in the Southern District of Florida. American Airlines is licensed to transport passengers and cargo on the basis that it will operate in a safe manner, in compliance with federal regulations.

On December 16, 1999, American Airlines pleaded guilty to violating the Resource Conservation and Recovery Act by illegally storing hazardous waste at the Miami International Airport. This was the first time a major air carrier pled guilty and accepted responsibility in a hazardous waste case. Under the plea agreement, entered in the Southern District of Florida, American Airlines paid an $8 million dollar fine and agreed to undertake a court supervised program at every airport in the United States and abroad where American Airlines accepts cargo for shipment. Pursuant to court supervised compliance program, American Airlines hired new personnel and managers, whose sole responsibilities will be to ensure compliance with federal safety requirements. In addition, there will be expanded employee training and the company will subject their operations to an outside auditor. The program will also establish a toll-free hotline through which employees may anonymously report suspected safety violations.

The investigation revealed that a series of incidents occurred between 1995 and 1999 involving the transportation of property containing hazardous materials and the storage of hazardous waste by American Airlines at Miami International Airport in violation of the law. As a result of these incidents, corrosive and flammable materials were transported by American Airlines without the requisite documentation that would identify the dangerousness of these materials. The hazardous waste regulations require American Airlines to store and dispose of such waste in a manner that does not present a danger to human health and the environment.

One such incident, on July 27, 1995, a shipper delivered a drum containing approximately 100 pounds of a product known as Dioxital to American Airlines, as cargo for air transportation. The shipper failed to disclose to American Airlines the fact that the contents of the drum were hazardous materials and failed to provide the proper labeling and documentation. Dioxital has a high concentration of a hazardous material known as Sodium Chlorate. An oxidizer, Sodium Chlorate can accelerate burning when involved in a fire, and may explode from heat or when exposed to incompatible materials. The friction of Sodium Chlorate with items such as cardboard or metal can cause a fire at very low temperatures.

American Airlines transported the drum of Dioxital while not in possession of any documentation that would identify the hazardous nature of the contents and ensure its safe handling. The drum was transported along with other baggage and cargo in an airplane carrying passengers from Mexico City to Miami. When the drum arrived at Miami International Airport on July 28, 1995, American Airlines employees moved the drum with a fork lift at their cargo facility. In the process, the drum was rolled on its side causing combustion of its contents and resulting in a small fire. The Dioxital spread across the ground with flames emanating from it causing dizziness and breathing difficulties for some employees.

A laboratory analysis of the material stored in the drum revealed that it contained 55% Sodium Chlorate and that it constituted a hazardous waste with ignitable characteristics under the Resource Conservation and Recovery Act. Rather than disposing of the waste by transporting it to a permitted treatment, storage, or disposal facility, as required by law, American Airlines stored the drum of ignitable hazardous waste in a storage area at Miami International Airport for three years without a permit. The drum was stored with other drums containing hazardous waste from past spills of hazardous materials in an unsecured area.

M&S Petroleum, Inc. (Mississippi) - In 1995 and 1996, M&S Petroleum, Inc. operated a refinery owned by Barrett Refining Company near Vicksburg, Mississippi. Jerry LaBarba of Houston, Texas, provided the financing and Donald Mullins, also of Houston, became the *de facto* plant manager, taking orders from Donald Mullins, who had moved to Vicksburg to oversee refinery operations. M&S used the refinery, which was designed and equipped to refine crude oil, in an attempt to refine high benzene chemical feedstock into an almost pure benzene product. M&S operated the refinery without implementing the environmental controls required by the Clean Air Act for operations involving high levels of benzene. Because the waste water treatment facility was also not designed for the types of operations being conducted, contaminants in the refinery's waste water far exceeded the permit limits. Moreover, M&S regularly pumped contaminated storm water into a creek leading to the Mississippi River, in violation of the storm water permit. Rather than correct the water permit problems, M&S allowed the permits to lapse. When M&S quit operating the refinery, it abandoned more than one million gallons of hazardous waste it had been storing in unused feedstock and product tanks. When the Mississippi Department of Environmental Quality (MDEQ) confronted M&S about the about the problems, Mullins and Cooke made several false statements to MDEQ personnel.

In August 1998, Mullins, LaBarba, Cooke and M&S were indicted for conspiracy to violate the Clean Water Act, Clean Air Act, the Resource Conservation and Recovery Act, and False Statements. The charges also included two substantive CWA counts, four RCRA storage counts, two CAA NESHAPs counts and eight false statement charges. Partly as a result of the co- defendants' cooperation, a superseding indictment was subsequently filed against Cooke for substantially the same charges. On July 8, 1999, a jury in Natchez, Mississippi found Cooke guilty on all ten counts. On October 25, 1999, Cooke was sentenced to 29 months imprisonment followed by three years supervised release, a $5000 fine and $1000 special assessment. M&S Petroleum Corporation and Barrett Refining Company, which had each pled guilty to one count, were sentenced to a $25,000 fine and $25,000 in restitution respectively. Donald Mullins, who had pled guilty to making a false statement, was sentenced to three years probation and 150 hours of community service. The case was the first prosecution under 42 U.S.C. 7413(c)(2)(B), penalizing the failure to notify regulators of the startup of a source subject to emissions standards, and 42 U.S.C. 7413(c)(1), which penalizes the failure to monitor equipment in benzene service.